NACDS NATIONAL ASSOCIATION OF CHAIN DRUG STORES

April 11, 2025

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Submitted via https://www.fcc.gov/ecfs/

Re: DELETE, DELETE, DELETE, GN Docket No. 25-133, *TCPA Consent Order* as contained in 47 CFR §§ 64.1200(a)(9)(i)(F), (10), (11) and (d)(3)

Dear Secretary Dortch:

The National Association of Chain Drug Stores (NACDS) appreciates the opportunity to provide comments on the Federal Communications Commission's (FCC) request for public input regarding the identification of FCC rules to alleviate unnecessary regulatory burdens. NACDS respectfully requests that the FCC rescind the Telephone Consumer Protection Act (TCPA) Consent Order as contained in 47 CFR §§ 64.1200(a)(9)(i)(F), (10), (11), and (d)(3). This request aligns with the FCC's solicitation for feedback on new proceedings and supports the policies outlined in President Trump's Executive Orders, including Executive Order 14192 ("Unleashing Prosperity Through Deregulation") and Executive Order 14219 ("Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative").

NACDS sincerely appreciates the FCC's recent order granting a limited waiver that delays the effective date of section 64.1200(a)(10) until April 11, 2026. This waiver requires callers to apply a request to revoke consent made in response to one type of message to all future robocalls on unrelated matters. This delay allows affected parties, including NACDS member organizations, to implement modifications to their communication systems in a cost-effective manner, ensuring they can process revocation requests in accordance with the TCPA Consent Order and associated rules. This relief is welcomed and appreciated by NACDS member organizations, as it ensures compliance with all FCC rules and regulations.

As you are aware, section 64.1200(a)(10) mandates that if a called party uses any reasonable method to revoke consent, consent is considered definitively revoked as to all non-exempt messages, and the caller may not send additional robocalls or robotexts, regardless of the type of message. The scope of revocation, a presumption for a universal revocation, harms consumers and frustrates valuable (and desired) business communications. For example, a consumer separately opts in to promotional messages related to a business's loyalty program, as well as messages relating to prescriptions or medical appointment reminders. Under the TCPA Consent Order, a consumer's opt-out to an appointment reminder messages from the business would also revoke the business's consent to send marketing messages, and other informational messages related to prescriptions or other health alerts, potentially harming consumers, even though the consumer signed up for each program separately.

If a consumer separately conveyed his or her consent to receive both informational and marketing messages from a business, then a revocation request should not be applied as if only one consent was obtained. Rather than treating a consumer's revocation message as a universal opt-out to all types of non-exempt messages, we urge the FCC to adopt a presumption that a revocation message is limited to the specific message program to which the consumer replies. Further, different messaging programs may use different messaging technology and effectuating a universal revocation, rather than a revocation limited to that specific messaging program, would require NACDS member organizations to implement new technology, further burdening businesses.

The responsibility of determining what is considered reasonable, and the associated burden of demonstrating unreasonableness, falls squarely on the calling organization. While the TCPA Consent Order extends beyond the reasonableness determination to include a 10-business-day timeline for compliance and a one-time post-revocation text intended to clarify the scope of the revocation within 5 minutes, the complex and costly burden of the reasonableness determination alone will have a significant and detrimental impact on NACDS member organizations. This impact includes the need for additional staff, software upgrades, and extensive training, culminating in an onerous administrative burden.

For the aforementioned reasons, NACDS respectfully requests that the FCC rescind the TCPA Consent Order as contained in 47 CFR §§ 64.1200(a)(9)(i)(F), (10), (11), and (d)(3). Rescinding the order will alleviate these burdens and promote a more efficient and cost-effective approach to managing communication systems in compliance with the TCPA.

For questions or further discussion, please contact NACDS' Christie Boutte, Senior Vice President, Reimbursement, Innovation and Advocacy at CBoutte@NACDS.org or 703-837-4211.

Sincerely,

Steven C. Anderson, FASAE, CAE, IOM
President and Chief Executive Officer